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International Court of Justice

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Mr. President, Your Honors,

We have asked you to condemn the responsible leaders of the drama which has bathed the world in blood. Today, when we ask you to declare the criminal organizations which served as instruments for their designs, we are seeking from your justice the moral condemnation of an entire, coherent system, which has brought civilization into the gravest danger which it has known since the collapse of the Roman world.

And we attach as much importance to the sentence which we are asking today as to the one which we requested yesterday.

For, if we believe it necessary for the guilty to be punished, we think it no less salutary to remind those who are powerful today, and will be tomorrow, of the dictates of a moral law without which neither Order nor Peace can rule in the universe.

Who does not see, in fact, that in the times in which we are living, when the folly of men has used the prodigious progress of science and technics for the work of death, and when, as a philosopher has said, "our

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civilization has equipped itself for suicide", the problems which confront the world's anguish are above all moral problems?

"Humanity", our great Bergson has said, "groans, half-crushed by the weight of the progress which it has made ... The enlarged body awaits the addition of a soul and the machinery demands a mystical faith."

We know what it is, this mystical faith of which Bergson was thinking. It is that which at the apogee of Graeco-Roman civilization, at a time when Cato the Elder, the wisest of the wise, was writing in his treatise on politic economy: "One must know the right time to sell one's old oxen and one's old slaves", introduced these two ideas into the world, which were enough to revolutionize it, the idea of personality and that of human brotherhood.

Personality, that is to say, the spiritualized individual, no longer the isolated man, the mere number in the political order, the cog in the economic order, but the entire man, body and soul, soul incarnate, no doubt, but above all a soul for the flowering of which society is made, the social man, who finds his full development only in fraternal communion with his neighbor, the man whose calling confers a dignity upon him which rightfully permits him to escape any attempt at enslavement or monopoly.

It is this mystical faith which in the political order has inspired all the written or traditional constitutions of all civilized nations, ever since Great Britain, the mother of the democracies, guaranteed to every free man, by virtue of Magna Charta and the act of Habeas Corpus, that he would be "neither arrested nor imprisoned, except by judgment of his peers rendered

by due process of law."

It is this which inspired the American Declaration of 1776: "We hold these truths to be self-evident, that all men have been endowed by their Creator with certain inalienable rights." It is this which inspired the Frenc declaration of 1791: "The representatives of the French people, appointed by National Assembly, considering that ignorance, forgetfulness, or contempt for the rights of man are the only causes of public misfortunes and the corruption of governments, have resolved to set forth, in a solemn declaration, the natu inalienable and sacred rights of man. Consequently, the National Assembly recognizes and declares, in the presence and under the auspices of the Supreme Being, the following rights of the man and the citizen."

Does not the idea of the eminent dignity of human personality also inspire the constitution of the Union of Soviet Socialist Republics, which, in its Chapter X, proclaims "the fundamental rights and duties of citizens of the USSR ... without distinction as to nationality or race".

Finally, does not the Charter of the United Nations, signed on 26 June, 1945, at San Francisco by 51 nations, begin with this solemn declaration: "We, the Peoples of the United Nations, resolved to preserve future generation from the scourge of war which twice within the span of one human life has inflicted indescribable sufferings on humanity, to proclaim our faith in the fundamental rights of man, in the dignity and value of human personality, in the equality of rights of men and women, as well as of nations, large and smal

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that it is Christianity's chief contribution to the world and that extending its conquests slowly, in the course of centuries, it has laid the foundations of world civilization.

It was against this mystical [illegible]th that HITLER, in the midst of the 20th century, attempted a violent [illegible]action, by setting up against it his barbarous ideology of racism, his primitive conception of social life, regulated by biological laws alone.

For he not only envisaged establishing Germany's military domination in Europe, he had the ambition to impose his "culture" on the world, which upsets all the moral and intellectual foundations upon which the civilized world has rested ever since the Christian era.

For him the biological laws which regulate animal communities are equally applicable to human communities, and primarily those of natural selection and the struggle for existence.

From this point of view there could be no question of the independence of the human personality. Like t[illegible]ant in the ant-heap, the individual exists only by and for the group. The State is not made for the individual but the individual for the State.

From this point of view there could be no question of pity, nor of brotherly love. Christianity, the religion of the degenerate and the diseased will be replaced by the new religion which recognizes no law except that of the stronger, no duty except that of domination.

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In the sphere of internal policy it will order the purging of the German people of the elements which contaminate it, and the improvement of the race of blond Aryans. And the Jews will then be driven out or exterminated. The abnormal, the sick, the weak, will be eliminated or at least sterilized. Youth, snatched at an early age from its family, will be formed by the State for its mission, which is "to make the world tremble". "I want", said Hitler to Rauschning, "I want to see in its glance the glare which one sees in the eyes of a wild beast". Even so he slanders the wild beast, which kills, doubtless, because it is hungry, because it is afraid, or because it is in rut, but which is not acquainted with the sadism of refined tortures.

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And we know what crimes have been committed in the name of this new religion, how many dead the realization of this pretended doctrine of life has cost: the concentration camps, the gas chambers and the crematory ovens, the inoculations with viruses, the sterilizations, the vivisection practised on prisoners and deportees, the enslavement of peoples who were believed assimilable, and above all the methodical extermination of those who are alleged to be inferior, and in short "genocide", all this is the monstruous fruit of the Hitlerite ideology.

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M. de Montlhon was right in saying that the sin against the spirit is the fundamental vice of National Socialism and the source of all the crimes committed in its name. And did not Louis Veuillot have prophetic gifts, when he wrote in his "Parfum de Rome" in 1871:

"Germany, Germany, to whom heaven had given so much ! When thou shalt see an emperor's ghost reappear, who will not wield the sword to protect justice and defend the ancient law, but who will call himself the emperor of the people and the sword of the new law ... then will be the hour of the great expiation."

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We have shown who were the ones principally guilty of all the crimes of National Socialism. But to realize their diabolical plan of universal domination, not only of territories but of consciences, they needed collaborators inspired with the same mystical faith, formed according to the same disciplines, and this is why the leaders, the "fuehrers", conceived and realized, little by little, this complicated and coherent system of leadership, coercion and control, which constitutes the entirety of the organizations of the State and of the National Socialist Party.

Executive organizations were necessary, from which emanated, by virtue of the "Fuehrer Prinzip", general orders and directives, and these are the Reich Cabinet and the Leadership Corps of the Nazi Party.

Instruments of propaganda control, police and execution were necessary, the Gestapo, the S.A., the S.D., and the S.S.

Finally, it was necessary for the army to be at the service of Party policy, and this was the work of the General Staff and the High Command, purged of all elements which were insufficiently nazified.

It is possible that the members of these organizations, these groups or these offices were more or less the fanatics of the regime, and the Tribunal recalls the specious distinction made in the course of Ribbentrop's examination between the "pure Nazis" and those who were only halfway so. All had at least accepted the doctrine and the material advantages which the regime lavished upon them. Because certain ones made a mental reservation, are they less contemptible and

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less guilty?

That all these organizations, these groups or these offices contributed to the work of universal domination by every means, has been abundantly proven in the course of these proceedings.

Have not the defenders of the organizations constantly intervened during the interrogations of the individual defendants, and were not all of these defendants, in various capacities, members of one and often several of these organizations, so that the close cooperation between the collective organizations and the men who are now on the defendants' bench has been established in an indisputable way.

And so, after these proceedings which have been so thorough, after the addresses of my eminent colleagues of the american and British prosecution staffs, I shall refrain from recalling once more the innumerable atrocities in which the groups or organizations listed in the indictment have participated, by ordering them, by executing them, or by permitting them.

I should only like to reply briefly to two of the arguments to which the defense counsels, and particularly those for the Gestapo, the S.D. and the High Command, appear to attach the greatest importance.

It is possible, they say at first, that abuses were committed, in the heat of the struggle, which had become pitiless, in the course of the war, which had become total, but it was never a question of anything but individual crimes, which might involve the responsibility of the persons who committed them, but not that of the groups which condemned them.

Water-tight compartments, says the defense in the second place

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separated the various organizations of the Reich. For this reason the activity of each organization should be examined separately and this examination does not reveal a criminal intention or activity in any of them.

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1st argument, to determine if an organization is criminal it is necessary, says the defense, to examine the essential principles of its structure. There is nothing criminal about this. From that time on, the crimes, if perhaps any have been committed, could not have been attributed to the individuals, and does not allow the criminal character of the group as a whole to be inferred.

Thus the Gestapo, according to the terms of its constitution, is a state police, charged, like all police of civilized states, with aiding in the work of justice and protecting the group against individuals who threaten its security. It is possible that it has sometimes received and carried out orders from above, which are not directly relevant to its essential mission of protection, like the mass arrests of Jews, the extermination of Russian prisoners of war, the assassination of recaptured escaped prisoners. But these accidental activities do not fall within its competence as an institution. They do not alter the essential character of the organization, which has nothing criminal about it.

Thus the SD is constitutionally a simple service of information and sounding out of the public opinion, a sort of Gallup poll, of itself harmless.

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It is possible that members of the S.D. have collaborated accidentally in the repressive measures of the Gestapo. It is true that members of the S.D. have held a number of high positions and have indulged in a number of questionable activities, but they did not act then as functionaries of the S.D. and could not compromise the organization, the institutional character of which had nothing criminal about it.

Thus the High Command was charged institutionally only with the defense of the Reich and only with its defense. It does not busy itself with politics and has nothing to do with the police. It is possible that it may have sometimes overstepped its mission. It is true that it obeyed the order to deport those who resisted to an unknown destination, to hand over to the police for extermination the commandos and escaped prisoners, which is against military honor, but it acted then as a simple intermediary agent for Hitler's or Himmler's orders. This accidental activity, outside the bounds of its own jurisdiction could not change its essential character, which is not criminal.

Thus the defense always tries to distinguish between the institutional character of the organization which it believes it has shown to be non-criminal, and the practical activity of the group, which, it recognizes could be subject to criticism, a distinction, which could be understood in a democratic regime, when pre-established institutions limit the arbitrary nature of governments, when the autonomy of the individual and the liberty of the citizen are protected from the misuse of power, but which is incomprehensible in the Hitler regime.

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Did Best, the police theorician trouble about respecting a principle
(22.32.P.S.) when he wrote that the means of action of the police are prescribed by the enemy?

(Reichs-gesetzblatt (1st part 1933) (P.S.1930) p.83) Does the decree of 28 February 1933 trouble about principle, when it allows the all-powerful State to ignore all legal limitations?

Does Hitler make any distinction between principle and practice, when, at the conference of 23 May 1933 which assembles at the Chancellery the members of the High Command he states: "The principle consisting in avoiding the solution of problems by adaptation to
(L.79) circumstances must be banished. Rather must circumstances be adapted to necessities.... It is no more a question of justice or injustice, but of the existence or the non-existence of 80 million people".

In reality, under the HITLER regime there are no pre-established institutions, no legality, no limitation to arbitrariness, no possible abuse of power. There is no other principle than the "Fuehrerprinzip", no other legality than the good pleasure of the chief, the order of whom, from the top to the bottom of the ladder, must be executed without any possible dissension.

The concept of a pretended institution which had supposedly presided over the constitution of the collective organizations and given them a certain character, is merely an "à posteriori" construction of the defence counsel's ingenuity.

The concrete activity of the collective organizations alone counts, and we have demonstrated that it was criminal.

~~The first argument of the defence cannot be admitted~~.

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Moreover, the defense seeks a way to exculpate the collective organizations by the fact that the members of the Gestapo, the SS, or the SD, who have indulged in these criminal acts did not perform them in the name of their original organization, but were temporarily detached therefrom.

Is the proof not to the contrary that, in the general organization of the National Socialist system, these groups played the role of reserves and preparatory schools whence the leaders, for their work of domination, drew the executors, perfectly prepared for the criminal deeds entrusted to them.

And the fact that HITLER often conferred the dignity of honorary membership in one of these organizations on his accomplices, is also proof of the importance which he attached to the testimony of orthodoxy, which was the appartenance of one or other of these groups.

Thus, according to whichever point of view one takes, the first argument of the defense cannot be maintained.

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The Defense submits a second argument.

The organizations, it says, were independent and did not know each other. Some are subject to the State, the others to the Party, while State and Party exert their activity in different domains. Within the organizations themselves watertight partitions divided the various sections that composed them, and which acted quite independently. And, at the risk of sacrificing the worst compromized cells, the defense counsels are trying to clear from responsibility the greater possible number of such supposedly isolated groups.

But this argument is contradicted by all we know of the general organization of the Reich's administrative services. As shown by Mr. DUBOST in establishing the personal responsibility of each individual defendant, the close interlocking of the organizations and of the services is beyond discussion.

The National-Socialist State is totalitarian. Its officials as well as its services derive their inspiration from a common ideology, pursue common aims, and unity of action is insured by the penetration of the Party which is the expression of the political will of the People throughout the whole State machine.

In their writings this unification of State and Party is realized by the law of 1 December 1933: " The National-Socialist Party has become the representative of the idea of the German State and is indissolubly bound to the State" (Art. I).

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Public services must cooperate with the services of the Party.

In fact, this interpenetration, this unification of State and Party is realized by the concentration into the same hands of the powers emanating from one and the other.

HITLER is at the same time head of the State, of the Army, and of the Party.

HIMMLER, chief of the SS, which is subject to the Party, is at the same time head of the Police which is subject to the State.

The, Gauleiter, party officials, are also in most cases representa of the State in their capacity of governors of the Reich or Chief Administrators of Prussia.

The Chief of the Chancery of the Party participates in the elaboration of the more important laws and in the nomination of the higher State officials.

The law of 7 April 1933 provides for the purging of State officials suspected of insufficient devotion to the Party, and we know with what brutality this same purge was carried out in the High Command. (Reichsgesetz-blatt (1933 1st-part,p.175) PS.1397)

Thus, in their acts as well as in their writings the inter-dependence of State, Party and Army is realized to the utmost extent, and in the sum total of their activity it is impossible to discern the share of responsibility belonging to the one or to the other.

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Is it necessary to give examples thereof? We gave several examples thereof and fear to weary the attention of the Tribunal.

Will it be sufficient to remind of the close cooperation of the Gestapo, the SD, the SS and the Army in the common elaboration of the general instructions and in carrying out operations against the resistants, reprisals against the civil population and the extermination of the Jews.

Do we not find a convincing proof of it in HITLER's instruction
(F. 673) of 30 July 1944 which has frequently been quoted:

"All acts of violence committed by non German
"civilians in the occupied territories against
"the "Wehrmacht", the SS and the Police and against
"the installations which they use, must as acts of
"terror or sabotage, be fought in the following way:
"a) The troops and each individual member of the Wehrmacht, and SS and Police must kill then/there the terrorists and saboteurs who are caught in the very act.
"b) Anyone caught later on must be transferred to the nearest local serivce of the Security Police and the Security Service.

By mentioning three times, side by side, the Wehrmacht, the SS and the Police, does not HITLER underline the close cooperation between these organizations?

Is it necessary to remind once more of KEITEL's numerous instruc-
U.K.66) tions, Marshal KESSELRING's order of 14 January 1944 and General
F 257 - von BRODOWSKI's diary of operations that put the army at the disposal
F. 405) of the Police or the Police at the army's disposal with a view to the savage repression of the actions of the resistants?

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F.A.I.
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Is it necessary to recall to your memory KEITEL's orders to the Generals in Command in France , Holland and in Belgium that the Army should be made to participate in the pillaging of art treasures organized and directed by ROSENBERG?

Did not the witness HOFFMANN - quoted by the Gestapo - declare to the Court on 1 August that the decree "Nacht und Nebel" was the outcome of collaboration between the High Command and the Ministry of Justice?

The defense therefore tries vainly to mitigate the responsibilities by dividing them between agencies of the State and of the Party, between the so-called independent organizations.

It is no more successful when it tries to establish that watertight partitions separate, within the same organization, the various sections of which it is composed. For example, whom does it expect to believe that the administrative officials of the S.D. (Security Service) and of the Gestapo were ignorant of the magnitude of the deportations since they had to solve the difficult problem of arranging for convoys; or that the offices supplying material could fail to know about the extermination by chemical processes, as they had to repair the gas vans?

In fact, all the departments of the Gestapo, the S.D., the S.S. and the High Command are jointly responsible for the crimes which were committed in common; again, what holds true for the organizations applies likewise to the Reich Cabinet and the political chiefs, as has been brought out by my most honorable colleagues of the Public Prosecution.

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Are those who did the organizing less guilty than those who committed the deeds; has the brain less responsibility than the arm?

We therefore think we have demonstrated the joint culpability of all those organizations which we request you to pronounce as criminal.

Does it mean that our purpose is to obtain from the competent tribunals the most severe verdicts against all members of these organizations?

Certainly not. In requesting of your justice the moral condemnation of the organizations, without which the crimes of National Socialism could not have been perpetrated, we are not asking you to condemn without hearing men who, on the contrary, could make their personal defense arguments prevail before the competent tribunals.

If moreover the Charter of your Tribunal does decree that "in every case in which the Tribunal has proclaimed the criminal character of a group or organization... such criminal character shall be considered as established and can no longer be contested", it does not say anywhere that all members of such groups or organizations will have to be arraigned before competent authorities, and in our opinion only those will have to be prosecuted who, having knowledge of the group or organization's criminal activity, have deliberately joined it, thus participating personally in the crime committed by all collectively.

We think, on the other hand, that in the interest of an undisturbed justice and the hope of universal pacification, the penalties must be made proportionate to the gravity of the offence charged, and that if the most severe penalties are justly attendant upon

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the crimes of which a member of an organization is found to be personally guilty, mere affiliation, even voluntary, to one of these groups should only be punished by penalties involving deprivation of freedom or even by mere deprivation of all or part of the civil or political rights.

And if the Tribunal is of the same opinion there is nothing in the Charter to prevent it from saying so in whatever form it deems most fitting.

Your verdict therefore will not be, as Dr.STEINBAUER seemed to fear in his final pleading for SEYSS-INQUART, the conclusion of a "trial of the vanquished by the victor." It will be the solemn and serene manifestation of eternal Justice.

In this same final pleading, trying to oppose the words of M.de Menthon to the attitude of one of the most heroic chiefs of the French Resistance, who has since become President of the Government of the Republic, Dr.STEINBAUER recalled Mr.GEORGES BIDAULT's words while visiting severely wounded Germans after the liberation, "Comrades", he said to them, "I wish you a prompt recovery and a happy return to your country."

The defense counsel of SEYSS-INQUART was wrong. There is no contradiction between the words of Francois de Menthon and those of GEORGES BIDAULT, and the French-men, as well as, I am sure, all the free citizens of the United Nations all agree to reconcile the necessary

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severity for the culprits with the pity for those who perhaps have only been the victims.

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In declaring the collective organizations criminal, in order to allow the competent authorities to punish the guilty and only the guilty, in solemnly recalling to the world that a moral law existed before the arbitrary conduct of men and governments, which imposes itself on public figures as well as private persons, on nations as well as on individuals, and that it is criminal to violate it, your sentence will contribute forcibly to the great work of universal pacification which the representatives of the free peoples undertake in the organization of the United Nations, as at the Peace Conference, in New York as in Paris, "in the great hope of the plain people with upright hearts".

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Francis Biddle

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Instruments of propaganda control, police and execution were necessary, the Gestapo, the S.A., the S.D., and the S.S.

Finally, it was necessary for the army to be at the service of Party policy, and this was the work of the General Staff and the High Command, purged of all elements which were insufficiently nazified.

It is possible that the members of these organizations, these groups or these offices were more or less the fanatics of the regime, and the Tribunal recalls the specious distinction made in the course of Ribbentrop's examination between the "pure Nazis" and those who were only halfway so. All had at least accepted the doctrine and the material advantages which the regime lavished upon them. Because certain ones made a mental reservation, are they less contemptible and

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less guilty?

That all these organizations, these groups or these offices contri buted to the work of universal domination by every means, has been abundantly proven in the course of these proceedings.

Have not the defenders of the organizations constantly intervened during the interrogations of the individual defendants, and were not all of these defendants, in various capacities, members of one and often several of these organizations, so that the close cooperation between the collective organizations and the men who are now on the defendants' bench has been established in an indisputable way.

And so, after these proceedings which have been so thorough, after the addresses of my eminent colleagues of the american and British prosecution staffs, I shall refrain from recalling once more the innumerable atrocities in which the groups or organizations listed in the indictment have participated, by ordering them, by executing them, or by permitting them.

I should only like to reply briefly to two of the arguments to which the defense counsels, and particularly those for the Gestapo, the S.D. and the High Command, appear to attadh the greatest importance.

It is possible, they say at first, that abuses were committed, in the heat of the struggle, which had become pitiless, in the course of the war, which had become total, but it was never a question of anything but individual crimes, which might involve the responsibility of the persons who committed them, but not that of the groups which condemned them.

Water-tight compartments, says the defense in the second place

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separated the various organizations of the Reich. For this reason the activity of each organization should be examined separately and this examination does not reveal a criminal intention or activity in any of them.

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1st argument, to determine if an organization is criminal it is necessary, says the defense, to examine the essential principles of its structure. There is nothing criminal about this. From that time on, the crimes, if perhaps any have been committed, could not have been attributed to the individuals, and does not allow the criminal character of the group as a whole to be inferred.

Thus the Gestapo, according to the terms of its constitution, is a state police, charged, like all police of civilized states, with aiding in the work of justice and protecting the group against individuals who threaten its security. It is possible that it has sometimes received and carried out orders from above, which are not directly relevant to its essential mission of protection, like the mass arrests of Jews, the extermination of Russian prisoners of war, the assassination of recaptured escaped prisoners. But these accidental activities do not fall within its competence as an institution. They do not alter the essential character of the organization, which has nothing criminal about it.

Thus the SD is constitutionally a simple service of information and sounding out of the public opinion, a sort of Gallup poll, of itself harmless.

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It is possible that members of the S.D. have collaborated accidentally in the repressive measures of the Gestapo. It is true that members of the S.D. have held a number of high positions and have indulged in a number of questionable activities, but they did not act then as functionaries of the S.D. and could not compromise the organization, the institutional character of which had nothing criminal about it.

Thus the High Command was charged institutionally only with the defense of the Reich and only with its defense. It does not busy itself with politics and has nothing to do with the police. It is possible that it may have sometimes overstepped its mission. It is true that it obeyed the order to deport those who resisted to an unknown destination, to hand over to the police for extermination the commandos and escaped prisoners, which is against military honor, but it acted then as a simple intermediary agent for Hitler's or Himmler's orders. This accidental activity, outside the bounds of its own jurisdiction could not change its essential character, which is not criminal.

Thus the defense always tries to distinguish between the institutional character of the organization which it believes it has shown to be non-criminal, and the practical activity of the group, which, it recognizes could be subject to criticism, a distinction, which could be understood in a democratic regime, when pre-established institutions limit the arbitrary nature of governments, when the autonomy of the individual and the liberty of the citizen are protected from the misuse of power, but which is incomprehensible in the Hitler regime.

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Did Best, the police theorician trouble about respecting a principle (22.33.P.S.) when he wrote that the means of action of the police are prescribed by the enemy?

(Reichs-gesetzblatt (1st part 1933) (P.S.1930) p.83) Does the decree of 28 February 1933 trouble about principle, when it allows the all-powerful State to ignore all legal limitations?

Does Hitler make any distinction between principle and practice, when, at the conference of 23 May 1933 which assembles at the Chancellery the members of the High Command he states: "The principle consisting in avoiding the solution of problems by adaptation to (L.79) circumstances must be banished. Rather must circumstances be adapted to necessities.... It is no more a question of justice or injustice, but of the existence or the non-existence of 80 million people".

In reality, under the HITLER regime there are no pre-established institutions, no legality, no limitation to arbitrariness, no possible abuse of power. There is no other principle than the "Fuehrer-prinzip", no other legality than the good pleasure of the chief, the order of whom, from the top to the bottom of the ladder, must be executed without any possible dissension.

The concept of a pretended institution which had supposedly presided over the constitution of the collective organizations and given them a certain character, is merely an "à posteriori" construction of the defence counsel's ingenuity.

The concrete activity of the collective organizations alone counts, and we have demonstrated that it was criminal.

~~The first argument of the defence cannot be admitted.~~

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Moreover, the defense seeks a way to exculpate the collective organizations by the fact that the members of the Gestapo, the SS, or the SD, who have indulged in these criminal acts did not perform them in the name of their original organization, but were temporarily detached therefrom.

Is the proof not to the contrary that, in the general organization of the National Socialist system, these groups played the role of reserves and preparatory schools whence the leaders, for their work of domination, drew the executors, perfectly prepared for the criminal deeds entrusted to them.

And the fact that HITLER often conferred the dignity of honorary membership in one of these organizations on his accomplices, is also proof of the importance which he attached to the testimony of orthodoxy, which was the appartenance of one or other of these groups.

Thus, according to whichever point of view one takes, the first argument of the defense cannot be maintained.

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The Defense submits a second argument.

The organizations, it says, were independent and did not know each other. Some are subject to the State, the others to the Party, while State and Party exert their activity in different domains. Within the organizations themselves watertight partitions divided the various sections that composed them, and which acted quite independently. And, at the risk of sacrificing the worst compromized cells, the defense counsels are trying to clear from responsibility the greater possible number of such supposedly isolated groups.

But this argument is contradicted by all we know of the general organization of the Reich's administrative services. As shown by Mr. DUBOST in establishing the personal responsibility of each individual defendant, the close interlocking of the organizations and of the services is beyond discussion.

The National-Socialist State is totalitarian. Its officials as well as its services derive their inspiration from a common ideology, pursue common aims, and unity of action is insured by the penetration of the Party which is the expression of the political will of the People throughout the whole State machine.

In their writings this unification of State and Party is realized by the law of 1 December 1933: " The National-Socialist Party has become the representative of the idea of the German State and is indissolubly bound to the State" (Art. I).

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Public services must cooperate with the services of the Party.

In fact, this interpenetration, this unification of State and Party is realized by the concentration into the same hands of the powers emanating from one and the other.

HITLER is at the same time head of the State, of the Army, and of the Party.

HIMMLER, chief of the SS, which is subject to the Party, is at the same time head of the Police which is subject to the State.

The, Gauleiter, party officials, are also in most cases representati of the State in their capacity of governors of the Reich or Chief Administrators of Prussia.

The Chief of the Chancery of the Party participates in the elaboration of the more important laws and in the nomination of the higher State officials.

The law of 7 April 1933 provides for the purging of State officials suspected of insufficient devotion to the Party, and we know with what brutality this same purge was carried out in the High Command

(Reichsgesetz-blatt (1933 1st-part,p.175) (PS.1397)

Thus, in their acts as well as in their writings the inter-dependence of State, Party and Army is realized to the utmost extent, and in the sum total of their activity it is impossible to discern the share of responsibility belonging to the one or to the other.

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Is it necessary to give examples thereof? We gave several examples thereof and fear to weary the attention of the Tribunal.

Will it be sufficient to remind of the close cooperation of the Gestapo, the SD, the SS and the Army in the common elaboration of the general instructions and in carrying out operations against the resistants, reprisals against the civil population and the extermination of the Jews.

Do we not find a convincing proof of it in HITLER's instruction
(F. 673) of 30 July 1944 which has frequently been quoted:

"All acts of violence committed by non German
"civilians in the occupied territories against
"the "Wehrmacht", the SS and the Police and against
"the installations which they use, must as acts of
"terror or sabotage, be fought in the following way:

"a) The troops and each individual member of the Wehrmacht, SS and Police must kill then/there the terrorists and saboteurs who are caught in the very act.

"b) Anyone caught later on must be transferred to the nearest local scrivce of the Security Police and the Security Service.

By mentioning three times, side by side, the Wehrmacht, the SS and the Police, does not HITLER underline the close cooperation between these organizations?

Is it necessary to remind once more of KEITEL's numerous instruc-
U.K.66) tions, Marshal KESSELRING's order of 14 January 1944 and General
F 257 - von BRODOWSKI's diary of operations that put the army at the disposal
F. 405) of the Police or the Police at the army's disposal with a view to the savage repression of the actions of the resistants?

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Is it necessary to recall to your memory KEITEL's orders to the Generals in Command in France, Holland and in Belgium that the Army should be made to participate in the pillaging of art treasures organized and directed by ROSENBERG?

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Did not the witness HOFFMANN - quoted by the Gestapo - declare to the Court on 1 August that the decree "Nacht und Nebel" was the outcome of collaboration between the High Command and the Ministry of Justice?

The defense therefore tries vainly to mitigate the responsibilities by dividing them between agencies of the State and of the Party, between the so-called independent organizations.

It is no more successful when it tries to establish that watertight partitions separate, within the same organization, the various sections of which it is composed. For example, whom does it expect to believe that the administrative officials of the S.D. (Security Service) and of the Gestapo were ignorant of the magnitude of the deportations since they had to solve the difficult problem of arranging for convoys; or that the offices supplying material could fail to know about the extermination by chemical processes, as they had to repair the gas vans?

In fact, all the departments of the Gestapo, the S.D., the S.S. and the High Command are jointly responsible for the crimes which were committed in common; again, what holds true for the organizations applies likewise to the Reich Cabinet and the political chiefs, as has been brought out by my most honorable colleagues of the Public Prosecution.

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Are those who did the organizing less guilty than those who committed the deeds; has the brain less responsibility than the arm?

We therefore think we have demonstrated the joint culpability of all those organizations which we request you to pronounce as criminal.

Does it mean that our purpose is to obtain from the competent tribunals the most severe verdicts against all members of those organizations?

Certainly not. In requesting of your justice the moral condemnation of the organizations, without which the crimes of National Socialism could not have been perpetrated, we are not asking you to condemn without hearing men who, on the contrary, could make their personal defense arguments prevail before the competent tribunals.

If moreover the Charter of your Tribunal does decree that "in every case in which the Tribunal has proclaimed the criminal character of a group or organization... such criminal character shall be considered as established and can no longer be contested", it does not say anywhere that all members of such groups or organizations will have to be arraigned before competent authorities, and in our opinion only those will have to be prosecuted who, having knowledge of the group or organization's criminal activity, have deliberately joined it, thus participating personally in the crime committed by all collectively.

We think, on the other hand, that in the interest of an undisturbed justice and the hope of universal pacification, the penalties must be made proportionate to the gravity of the offence charged, and that if the most severe penalties are justly attendant upon

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the crimes of which a member of an organization is found to be personally guilty, mere affiliation, even voluntary, to one of these groups should only be punished by penalties involving deprivation of freedom or even by mere deprivation of all or part of the civil or political rights.

And if the Tribunal is of the same opinion there is nothing in the Charter to prevent it from saying so in whatever form it deems most fitting.

Your verdict therefore will not be, as Dr.STEINBAUER seemed to fear in his final pleading for SEYSS-INQUART, the conclusion of a "trial of the vanquished by the victor." It will be the solemn and serene manifestation of eternal Justice.

In this same final pleading, trying to oppose the words of M.de Menthon to the attitude of one of the most heroic chiefs of the French Resistance, who has since become President of the Government of the Republic, Dr.STEINBAUER recalled Mr.GEORGES BIDAULT's words while visiting severely wounded Germans after the liberation, "Comrades", he said to them, "I wish you a prompt recovery and a happy return to your country."

The defense counsel of SEYSS-INQUART was wrong. There is no contradiction between the words of Francois de Menthon and those of GEORGES BIDAULT, and the French-men, as well as, I am sure, all the free citizens of the United Nations all agree to reconcile the necessary

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severity for the culprits with the pity for those who perhaps have only been the victims.

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In declaring the collective organizations criminal, in order to allow the competent authorities to punish the guilty and only the guilty, in solemnly recalling to the world that a moral law existed before the arbitrary conduct of men and governments, which imposes itself on public figures as well as private persons, on nations as well as on individuals, and that it is criminal to violate it, your sentence will contribute forcibly to the great work of universal pacification which the representatives of the free peoples undertake in the organization of the United Nations, as at the Peace Conference, in New York as in Paris, "in the great hope of the plain people with upright hearts".

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Organizations -- Closing Speech (French Transcript)
(English)

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